

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**STATE OF NEW MEXICO ex rel KENNETH GOMEZ,**

Plaintiffs,

vs.

1:10-cv-594 JAP/LFG

**ELEVENTH JUDICIAL DISTRICT COURT,**

Defendant.

**THE PLAINTIFF STATE'S MEMORANDUM BRIEF IN SUPPORT OF  
MOTION FOR JUDICIAL NOTICE OF CRIMINAL ACTS**

**I. BACKGROUND**

Plaintiff State seeks judicial notice of the criminal environment being imposed upon it by a corrupt judicial system composed of persons holding federal commissions under false pretenses and supported by associated judicial officers lawfully holding federal commissions. Plaintiff State avers there are sufficient incontrovertible legal facts to support judicial notice of the foregoing and submits those facts for the honorable Court's consideration when it becomes competent with jurisdiction to act.

**II. FACTS, LAW AND AUTHORITIES PERTAINING TO JUDICIAL NOTICE**

(a) The purpose of judicial notice under Rule 201 is to preclude a party from introducing contrary evidence concerning a fact that is not subject to dispute. *Jones v. Lane*, 2006 U.S. LEXIS 61994 (D. Colo. 2006).

(b) Taking judicial notice of a court's own record is entirely consistent with provisions of Rule 201. *U.S. v. Pelletier*, 469 F. 3d 194 (1st Cir. 2006); *MacMillon Bloedel Ltd. v Flintkote Co.*, 760 F.2d 580 (5th Cir. 1985).

(c) The Defendant District Court has not disputed any facts contained in Document Number 50. See Docket Sheet.

(d) The Court may take judicial notice of proceedings in other courts, both within and without the federal judicial system if those proceedings have a direct relation to matters at issue in the case currently before it. *Bias v. Maynihan*, 508 F.3d 1212 (9th Cir. 2007)

### **III. FACTS TO BE JUDICIALLY NOTICED**

(a) There are no persons lawfully holding public office as state public officers within the State of New Mexico for failure to be bound by their oath of office under power mandated by Article VI, Clause 3, Constitution of the United States of America, for failure to acquire a penal bond from an authorized insurer binding them to the oath of office under the power mandated by Article XXII, Section 19, Constitution of the State of New Mexico, for failure to comply with the authority of NMSA 1978 Sections 10-2-5, 6, 7, and 9 which give effect to the aforementioned constitutional powers, and for embezzling state appropriated funds on a monthly basis as salaries while under the public trust not to do so. See pp. 601 and 602, *Bowman Bank and Trust Co. v. First National Bank of Albuquerque, et al.*, 18 N.M. 589, 139 P. 148

(b) There are four persons sitting in judgment of parties before the Court holding federal commission as federal district court judges under false pretenses for falsifying their individual Financial Disclosure Statement pertaining to source of income which had been acquired during monthly periods of embezzling state public appropriations while not lawfully holding state public officer positions, while denying the power of both constitutions, and while denying the authority of state statutes giving effect to those powers. Said financial statements were required by Public Law 95-521 within thirty days of being nominated for positions as federal district court

judges and forwarded to the Ethics Committee of the United States Judicial Conference, a conference chaired by the Chief Justice of the United States. See Portion 3, P.L. 95-521.

(c) The federal judges, both district and magistrate, assigned to hear and determine the instant case have both issued orders while supporting of the four persons holding federal commissions under false pretenses, and both issued court orders though the Court was *not* competent to act and both issued orders without jurisdiction to act. See *Cohens v. Virginia*, 6 Wheat. 264, 5 L. Ed. 257 (1821) regarding competent jurisdiction to act, a citation fully contained in Doc. No. 8-1, ¶ f, Sec. II, Jurisdiction; and 28 U.S.C. § 1446 regarding civil causes.

(d) Kenneth Gomez, a pro se litigant is held in a federal judicial "system" involuntarily against his free will, without access or recourse to a competent court of law, and controlled by the Defendant Court, by and through counsel, to satisfy an artificial obligation of servitude - a servitude not sanctioned under 28 U.S.C. § 1446; nevertheless, the "system" is created by, employed by, and enforced by the judicial officers of the Court without jurisdiction to act. New Mexico currently ranks among the worse in governments measured as good governments, and heads the list among those governments measured as bad government. The evils of the system not only degrades those subject to the corrupted judicial "system", but exercises a baleful influence upon all New Mexicans affected by the "system" enforced, which in innumerable ways opposes their industrial prosperity and moral advancement as a People. The "system" is wholly out of keeping with the spirit of the Thirteenth Amendment, which forbids involuntary servitude except upon conviction of a crime. See *The Federal Peonage Cases*, 123 F. at 682.

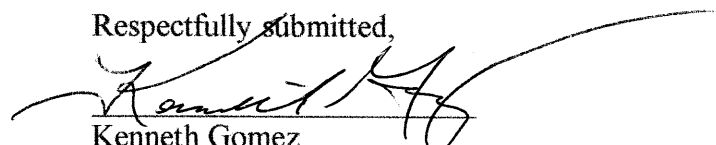
#### **IV. ARGUMENT**

The matter before the Court resolves to one and only one question: Does comity between sovereigns - where one sovereign respects the authority of the other - takes precedence over any

other matter under consideration by the deciding sovereign? What is at issue is the legal fact that one sovereign agency has blatantly refused to acknowledge and comply with mandated state and national constitutional powers and applicable statutory obligations as was discussed on pages 601 and 602 of *Bowman Bank and Trust Co.* Kenneth Gomez lawfully and courteously challenged the constitutional powers and statutory authority of a person to sitting as judge exercising judgment over him and was incarcerated for eleven days, June 9, 2006 to June 20, 2006, for doing so. On the eleventh day he was returned to Defendant Court and asked if he would recant to which he replied that he would not do so. He was immediately released from incarceration; however, the person sitting in judgment over him continued to hold the office unconstitutionally and without benefit of law. Now another sovereign agency, this Court, must decide whether comity between independent sovereign powers takes precedence in the matter or whether its sovereign power can act under the penumbra of comity in furtherance of the other sovereign's criminal acts. The matter is worsened when the legal fact that any action taken by the deciding sovereign is from within a criminal environment of its own in that four of the persons sitting in positions as district judges with the Court do so while holding federal commissions under false pretenses; a fact causing the Court to lack competence with jurisdiction to act contrary to *Cohens*. Any action taken by the Court to do so while the condition exists would be in furtherance of crimes on both sides of the question. Therefore, the Court is without jurisdiction to act and without decision authority in furtherance of criminal acts no matter where the associated criminal acts occur; comity to the contrary, notwithstanding.

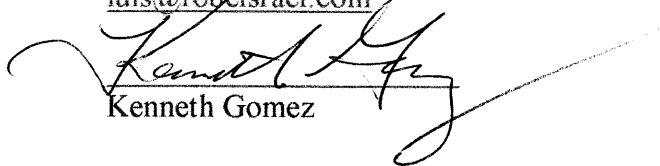
**WHEREFORE**, Plaintiff State requests the Court judicially notice the foregoing legal facts of criminal acts when it acquires competence and act accordingly to seek criminal indictments of those committing criminal acts, either state or federal.

Respectfully submitted,



Kenneth Gomez  
4 CR 5095  
Bloomfield, New Mexico 87413  
[klpope2003@yahoo.com](mailto:klpope2003@yahoo.com)  
(505)330-1239

I certify that on the 6<sup>th</sup> day of September, 2010,  
the foregoing was electronically served through  
the CM/ECF to Luis Robles, Attorney for Defendant,  
500 Marquette Ave., N.W., Suite 700, Albuquerque,  
New Mexico 87102, (505)242-2228,  
(505)242-1106(FAX),  
[luis@robelsrael.com](mailto:luis@robelsrael.com)



Kenneth Gomez